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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,611	12/31/2003	Luigi Fanti	P00830-US-01 (13030.0008)	8527
22446	7590	09/25/2006	EXAMINER	
ICE MILLER LLP ONE AMERICAN SQUARE, SUITE 3100 INDIANAPOLIS, IN 46282-0200			SCHATZ, CHRISTOPHER	
			ART UNIT	PAPER NUMBER

1733

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/749,611

Applicant(s)

FANTI, LUIGI

Examiner

Christopher T. Schatz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) 12-22 is/are withdrawn from consideration.  
5) ☒ Claim(s) 3-7, 9 and 10 is/are allowed.  
6) ☒ Claim(s) 1, 2 and 11 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☒ Certified copies of the priority documents have been received in Application No. 09/801,493.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maurin '581 in view of Fanti '682 for the reasons presented in section 3 of the office action dated March 8, 2006.

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maurin and Fanti as applied above, and in further view of Kauffman et al. for the reasons presented in section 4 of the office action dated March 8, 2006.

### *Allowable Subject Matter*

4. Claims 3-7, 9 and 10 are. Maurin discloses a method of applying heat and pressure to activate a thermally labile polymeric coupling agent. While the temperature disclosed by the reference is within applicant's claimed range, the heating process occurs for 18-30 minutes, well above applicants claimed time. Examiner asserts that no teaching in the prior art would motivate one of ordinary skill in the art to modify the method of Maurin such that the polymeric coupling agent can be activated in 7-15 seconds.

*Response to Arguments*

Applicant's arguments filed June 26, 2006 have been fully considered but they are not persuasive. Applicant argues that there is no motivation to combine Maurin and Fanti because there is no motivation to replace the non-plastic components of Maurin with the plastic components of Fanti. Applicant should first note Maurin is not concerned with the type of material used. Furthermore, Maurin discloses that contemplates a wide variety of "inert materials" can be used and cited "sandstone, treated earthenware, metal alloys, stainless steel, wood or synthetic rubber" as *only exemplary* materials (see column 1, lines 61-66). Examiner asserts that one of ordinary skill in the art reading column 1, lines 61-66 would have readily understood that although the cited text does not explicitly recite plastic components, use of plastic is by no means outside the scope of the invention. Thus, examiner asserts that Maurin is not limited to non-plastic material, and certainly does not exclude the use of plastic tile components. Applicant should further note that examiner clearly stated why one of ordinary skill in the art would have motivated to modify Maurin with Fanti. As stated on page 3 of the office action dated March 8, 2006, Maurin is silent as to a method of cutting a plurality of plastic components and assembling them to form a portion of a floor tile. However, Fanti does disclose such a method. Examiner asserts that it would have been obvious to one of ordinary skill in the art to modify Maurin by cutting a plurality of plastic components having a wear layer and backing layer and assemble them together as disclosed by Fanti such that the "tile" produced by the method of Maurin has a random wood grain effect. Thus, examiner respectfully asserts that examiner has not relied upon applicant's own disclosure in formulating the rejection.

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Applicant states that nothing in Maurin discusses or suggests the use of plastic components within its disclosed methods. Examiner respectfully asserts that Maurin in no way excludes plastics as discussed above. Applicant further argues that the heating method of Maurin could not be used to join the plastic components of Fanti because doing so would result in an unusable floor tile. In making this argument applicant cites Examples 1 and 2 of Maurin in which heating occurs at 180 °C for 18 minutes. Applicant is respectfully notified that the temperature and heating times disclosed in the example of the reference are merely *exemplary*. The disclosure of any reference is by no means limited to what is in the Examples. Examiner asserts that one of ordinary skill in the art would have readily achieved an appropriate time and temperature for joining the plastic components of Fanti in the method of Maurin through routine experimentation.

Applicant states that one of ordinary skill in the art would not have been motivated to combine Maurin and Fanti because the two references teach separate and distinct methods of joining individual tile components. Examiner asserts that the differences between the joining methods cited by the applicant do not make the combination of the two references non-obvious. Applicant should note that motivation for combining the reference is not based on the actual joining method, but rather based upon cutting and assembling the specific tiles disclosed by Fanti. Examiner asserts that the components that form the tile of Fanti do not have to be joined by the method of Fanti. Nothing precludes the plastic components of Fanti from being joined by gluing each of plastic components to a unitary backing material. Additionally, it is not required that the plastic components directly contact each when joined. The plastic components of Fanti

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could easily be joined by using a thermosetting resin in between each of the components as disclosed by Maurin.

As to Kauffman, the reference explicitly discloses a backing film with perforations as shown in the figures. It is the position of the examiner that use of such a film with perforations in the method of Maurin would aid in retaining stresses as discussed on page 4 of the office action dated March 8, 2006.

### *Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Christopher T. Schatz** whose telephone number is **571-272-1456**. The examiner can normally be reached on 8:00-5:30, Monday -Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Christopher T. Schatz



**RICHARD CRISPINO**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700